

100 Church Street
New York, NY 10007
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

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A.R.C., an Infant, under the age of 18, by his
mother and natural guardian, ELIZABETH,
ROSADO,

Plaintiff,

Date Filed:

Index No.

**VERIFIED
COMPLAINT**

-against-

THE CITY OF NEW YORK, and DETECTIVE
DAVID TERRELL,

Defendants.

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Plaintiff, A.R.C., an infant, by his attorneys, NWOKORO & SCOLA, ESQUIRES,
respectfully alleges upon information and belief as follows:

1. At all times mentioned, Plaintiff A.R.C., was a resident of Bronx County, City and State of New York.
2. At all times mentioned, the CITY OF NEW YORK, was and is a municipal corporation duly organized and existing by virtue of the laws of the State of New York.
3. That on or about February 21, 2017 and within 90 days after the claim herein arose, the plaintiff served a Notice of Claim in writing sworn to on their behalf upon the defendant CITY OF NEW YORK, by delivering a copy thereof in duplicate to the officer designated to receive such process personally, which Notice of Claim advised the Defendant City

of New York, of the nature, place, time and manner in which the claim arose, the items of damage and injuries sustained so far as was then determinable and the claim was assigned the claim number 2017PI005091 by the New York City Comptroller's Office.

4. At least thirty (30) days have elapsed since the service of the notices of claim prior to the commencement of this action and adjustment of payment thereof has been neglected or refused, and this action has been commenced within one year and ninety (90) days after the happening of the event upon which the claims are based.
5. The plaintiff has complied with the request of the municipal Defendants for an oral examination pursuant to Section 50-H of the General Municipal Law and/or the Public Authorities Law and/or no such request was made within the applicable period.
6. Upon information and belief, at all times mentioned, Defendant Detective David Terrell was a Police Detective of the Defendant City of New York employed by the New York City Police Department (NYPD) and at all times herein was acting in such capacity as the agent, servant and employee of the Defendant, THE CITY OF NEW YORK.

FACTS

7. Detective David Terrell began to harass the infant plaintiff when the plaintiff was around 14 years old in the year 2014. At various times, Detective Terrell would forcibly bring the plaintiff to the Precinct against his will, interrogate him and physically abuse him.
8. Between January 2014 and October 2016, the infant plaintiff was stopped, restrained, harassed, detained and arrested by Detective Terrell, or other police officers under the direction of Detective Terrell, approximately seven times. After some of those arrests, Det. Terrell would call plaintiff's mother, Elizabeth Rosado, and ask her to pick up her son from the Precinct.
9. Elizabeth Rosado met Det. Terrell for the first time in January 2010 after Terrell arrested plaintiff's brother, also an infant, for disorderly conduct and disturbing the peace and Ms. Rosado was called to the 42nd Precinct to take her son home. After this encounter, Det. Terrell telephoned Ms. Rosado and unsuccessfully attempted to begin a sexual or romantic relationship.
10. In August 2014, Detective Terrell began a series of unwanted and progressively aggressive approaches of a sexual nature towards Elizabeth Rosado, although at all times she indicated to him that she was not interested in a sexual relationship with him. He repeatedly asked her out, and tells her how sexy she is although she made it clear

that his attentions were not welcome. These interactions occurred while Det. Terrell was on patrol in the neighborhood where Elizabeth Rosado lives and also at the 42nd Precinct whenever any of her sons was arrested by officers from the 42nd Precinct.

11. During this period, Det. Terrell told Elizabeth Rosado that if she gave in to his advances, he would protect her sons, including A.R.C., from being arrested by officers from the 42nd Precinct. Ms. Rosado did not give in to Detective Terrell's advances.
12. On or about October 6, 2016, plaintiff A.R.C. and his brother, left his home to get something to eat at Kennedy's Chicken, located at 170 Crotona Avenue, Bronx, NY. When Mr. Cotto arrived at Kennedy's two plain clothed police officers from the 42nd Precinct, whose names are currently unknown, approached a group of teenagers at the restaurant not including the plaintiff, and began to question with the intention of identifying the infant plaintiff.
13. Eventually, the two plain clothes police officers approached the plaintiff and grabbed hold of him. When plaintiff protested and asked the officers why they were arresting him, they stated in sum and substance, "we just heard he did something. We are going to bring him in".

14. Plaintiff A.R.C., was handcuffed, placed in a police vehicle, and driven to the 42nd Precinct. At no time did the unnamed police officers tell the plaintiff why he was being arrested.
15. The unknown police officers were acting at the behest and under the instructions of Detective David Terrell.
16. At the 42nd Precinct, plaintiff was placed in a holding cell. Not long after plaintiff was placed in the cell, Det. Terrell came to the cell but rather than speak to the plaintiff or tell him what he was being charged with, Det. Terrell just stared at the plaintiff and then laughed at him.
17. On or about October 6, 2016, plaintiff A.R.C. was arrested by Det. David Terrell, and charged with Menacing, harassment and criminal possession of a weapon.
18. On or about October 6, 2016, plaintiff was taken to Central Booking in the Bronx and charged with menacing, harassment and criminal possession of a weapon.
19. Plaintiff was detained for two days, and then released on his own recognizance.
20. That while plaintiff was being detained, defendant Terrell completed arrest paperwork, in which he swore in part, that plaintiff had committed a crime and or offense.

21. That the factual claims made by the defendants, were materially false and the defendants knew it to be materially false at the time they first made it, and every time thereafter, when they repeated it.
22. That defendant Terrell, forwarded these false allegations to the Bronx County District Attorney (BCDA) in order to justify the arrest and to persuade the BCDA to commence the plaintiff's criminal prosecution.
23. That as a direct result of these false allegations by the defendant police officers, the plaintiff was criminally charged in the Criminal Court of the City of New York, Bronx County, under Docket Number 2016 BX 043508 with the crimes of harassment, menacing, and criminal possession of a weapon.
24. The arrest of the plaintiff on or about October 6, 2016, was without probable cause.
25. The arrest of the plaintiff on or about October 6, 2016 was motivated by malice and a desire on the part of the defendant police officers to injure the plaintiff and to increase by unlawful and underhanded means, the number of arrests credited to the defendants, as a way of advancing their careers as police officers.
26. That the arrest of the plaintiff was motivated by malice and a desire on the part of Det. Terrell to exercise undue influence over plaintiff A.R.C., and his mother Elizabeth Rosado, using his position of power as a police officer.

27. That at no time prior to or during the above events was there probable cause to arrest the plaintiff, nor was it reasonable for the defendants to believe that probable cause existed.
28. Defendant Terrell intentionally and deliberately gave false statements and/or failed to file accurate or corrective statements.
29. That on or about January 12, 2017, after multiple court appearances, all criminal charges against A.R.C., stemming from the arrest of October 6, 2016, were dismissed without trial.

FIRST CAUSE OF ACTION: AGAINST DETECTIVE DAVID TERRELL AND THE CITY OF NEW YORK
(Assault and Battery)

30. Plaintiff re-alleges all the allegations contained in all preceding paragraphs of this complaint with full force and effect as though set forth at length herein.
31. On or about October 6, 2016, at 170 Crotona Avenue, Bronx, New York, defendant Terrell, by means of police officers whose names are currently unknown, acting according to his instructions, jointly and severally in their capacity as police officers wrongfully touched, grabbed, handcuffed and seized the plaintiff A.R.C., in an excessive manner about his person, causing him physical pain and mental suffering. At no time did the defendants have legal cause to grab, handcuff, seize, or touch the plaintiff, nor did the plaintiff consent to this illegal touching, nor was it privileged by law.

32. Consequently, plaintiff has been damaged and hereby demands compensatory and punitive damages against DETECTIVE TERRELL and THE CITY OF NEW YORK in an amount to be proven at trial against each of the defendants, individually and severally.
33. The defendant officers were at all material times acting within the scope of their employment, and as such, the defendant CITY OF NEW YORK is vicariously liable for the defendant officers acts described above.

**SECOND CAUSE OF ACTION: AGAINST DETECTIVE
DAVID TERRELL AND THE CITY OF NEW YORK
(False Arrest)**

34. As and for a second cause of action: Plaintiff repeats and re-alleges preceding allegations of this complaint with full force and effect as though set forth at length herein.
35. On or about October 6, 2016, the defendant Terrell, without a lawfully obtained warrant order or other legal process, and without any legal right, wrongfully and unlawfully arrested the plaintiff, restrained him and his liberty and then took him into custody to a police station in the County of the Bronx. The plaintiff was thereafter held in custody over for two days until he was released and was prosecuted until January 12, 2017. The defendant intentionally confined the plaintiff without his consent and the confinement was not otherwise privileged by law, and at all times, the plaintiff was conscious of his confinement.

36. Consequently, plaintiff has been damaged and hereby demands compensatory and punitive damages in an amount to be proven at trial against DETECTIVE TERRELL.
37. The defendant officers were at all material times acting within the scope of their employment, and as such, the defendant CITY OF NEW YORK, is vicariously liable for the defendant officers actions described above.

**THIRD CAUSE OF ACTION: AGAINST DETECTIVE
DAVID TERRELL AND THE CITY OF NEW YORK
(False Imprisonment)**

38. Plaintiff repeats and re-alleges all the allegations contained in the preceding paragraphs of this complaint with full force and effect as though set forth at length herein.
39. On or about October 6, 2016, in the Bronx, the defendants, jointly and severally, without any valid warrant, order or legal process and without any legal right, wrongfully and unlawfully imprisoned the plaintiff, restrained his liberty and then took him into custody and caused him to be incarcerated as a detainee in New York City's Correctional Facility. The plaintiff was thereafter held in custody for 2 days before he was released. The defendants intentionally confined the plaintiff without his consent and the confinement was not otherwise privileged by law and at all times, plaintiff was conscious of his confinement.

40. Consequently, plaintiff has been damaged and hereby demands compensatory and punitive damages in an amount to be proven at trial against Detective TERRELL individually and severally.
41. The defendant officers were at all material times acting within the scope of their employment, and as such, the defendant CITY OF NEW YORK, is vicariously liable for the defendant officers actions described above.

**FOURTH CAUSE OF ACTION: AGAINST DETECTIVE
DAVID TERRELL AND THE CITY OF NEW YORK**
(Malicious Prosecution)

42. Plaintiff incorporates, repeats and re-alleges all of the allegations contained in all preceding paragraphs of this complaint with full force and effect as though set forth at length herein.
43. From on or about October 6, 2016, to January 12, 2017, the defendants, jointly and severally, maliciously prosecuted plaintiff for the crimes of menacing, harassment and criminal possession of a weapon, although they had no lawful reason to believe that he in fact committed those crimes they intentionally prosecuted him for those crimes with an intent to unlawfully punish, intimidate and harass the plaintiff, and thereby they caused plaintiff severe damages including loss of liberty, physical injury to his person, and severe mental suffering.

44. On or about January 12, 2017, all the false criminal charges against the plaintiff were dismissed without trial.
45. Consequently, plaintiff has been damaged and hereby demands compensatory and punitive damages in an amount to be proven at trial against DETECTIVE TERRELL, individually.
46. The defendant officers were at all material times acting within the scope of their employment, and as such, the defendant CITY OF NEW YORK, is vicariously liable for the defendant officers actions described above.

FIFTH CAUSE OF ACTION: AGAINST DETECTIVE DAVID TERRELL AND THE CITY OF NEW YORK

**(False arrest/imprisonment: unlawful search and seizure
deprivation of rights in violation of the 4th and 14th
amendments, brought pursuant to 42 U.S.C. 1893)**

47. By this reference, plaintiff incorporates each and every allegation and averment set forth in the preceding paragraphs of this complaint as though fully set out herein.
48. In the arrest, detention and imprisonment of plaintiff on or about October 6, 2016, defendants, acting under color of state law, deprived the plaintiff of his right to be free from unreasonable search and seizure and arrest without probable cause or reasonable suspicion as required by the Fourth and Fourteenth Amendments, therefore, defendants are liable for violation of 42 U.S.C. Section 1983 which

prohibits the deprivation under color of state law of rights secured under the United States Constitution.

49. The defendants subjected the plaintiff to such deprivations, either in a malicious or reckless disregard of the plaintiff's rights or with deliberate indifference to those rights under the fourth and fourteenth amendments to the United States Constitution.
50. As a result of the aforesaid violation, plaintiff has been caused to suffer humiliation, great mental and physical anguish, embarrassment and scorn among those who know him, was prevented from attending to his necessary affairs, and has been caused to incur legal expenses, and has been otherwise damaged in his character and reputation.
51. Consequently, plaintiff has been damaged and hereby demands compensatory and punitive damages in an amount to be proven at trial against each defendant, individually and severally.
52. The defendant officers were at all material times acting within the scope of their employment and as such, the defendant, the CITY OF NEW YORK, is vicariously liable for the defendant officers acts as described above.

SIXTH CAUSE OF ACTION: AGAINST DETECTIVES
DAVID TERRELL AND THE CITY OF NEW YORK

**(Malicious Prosecution/Deprivation of Liberty in violation of
the 4th and 14th amendments, brought pursuant to 42 U.S.C.
1893)**

53. By this reference, plaintiff incorporates each and every preceding allegation and averment of this complaint as though fully set forth herein.
54. That DETECTIVE TERRELL was directly involved in the initiation of criminal proceedings against the plaintiff.
55. That TERRELL lacked probable cause to initiate criminal proceedings against the plaintiff.
56. That TERRELL acted with malice in initiating criminal proceedings against the plaintiff.
57. That TERRELL was directly involved in the continuation of criminal proceedings against the plaintiff.
58. That TERRELL lacked probable cause in continuing criminal proceedings against the plaintiff.
59. That TERRELL acted with malice in continuing criminal proceedings against the plaintiff.
60. That TERRELL misrepresented and falsified evidence throughout all phases of the criminal proceeding.
61. That TERRELL misrepresented and falsified evidence to the prosecutors in the Bronx County District Attorney's office.

62. That TERRELL withheld exculpatory evidence from the prosecutors in the Bronx County District Attorney's office.
63. That TERRELL did not make a complete statement of facts to the prosecutors in the Bronx County District Attorney's office.
64. The arrest, imprisonment and prosecution of the plaintiff was malicious and unlawful, because plaintiff had committed no crime and there was no probable cause to believe that plaintiff had committed any crimes.
65. The defendant officers actions were intentional, unwarranted and in violation of the law. The TERRELL had full knowledge that the charges made before the court against the plaintiff were false and untrue.
66. By their conduct as described above, and acting under color of state law, defendants are liable to the plaintiff under 42 U.S.C. §1983 for the violation of his constitutional right to be free from malicious prosecution under the Fourth and Fourteenth Amendments to the United States Constitution.
67. As a consequence of the malicious prosecution by the defendant officers, plaintiff's suffered a significant loss of liberty, humiliation, mental anguish, depression, and his constitutional rights were violated. Plaintiff hereby demands compensatory damages and punitive damages, in an amount to be determined at trial, against DETECTIVE DETECTIVE DAVID TERRELL individually and severally.

68. The Det. TERRELL was at all material times acting within the scope of his employment and as such, the defendant, the CITY OF NEW YORK, is vicariously liable for the defendant officers acts as described above.

SEVENTH CAUSE OF ACTION
(Monell Claim)

69. Plaintiff incorporates, repeats and re-alleges all of the preceding allegations of this complaint with full force and effect as though set forth at length herein. This cause of action is brought pursuant to 42 U.S.C. § 1983 for violations of the Fourth and Fourteenth Amendments to the United States Constitution. It applies to the City of New York and police officers sued in their official capacity and should be characterized as a "Monell" claim).

70. Defendants CITY OF NEW YORK has grossly failed to train and adequately supervise its police officers in the fundamental law of arrest, search and seizure especially when its police officers are not in possession of a court authorized arrest and/or search of individuals warrant, especially with respect to the principle and policy that the arrest should be based on probable cause.

71. The City of New York was negligent and/or deliberately indifferent by failing to implement a policy with its police department and instruct police officers who, absent the consent of the Plaintiff (or similarly situated individuals) or without the possession of a court authorized

arrest a search warrant, said police officers of the City of New York are not to arrest individuals such as the Plaintiff here where probable cause is lacking.

72. The City of New York is negligent or has acted with deliberate indifference due to its failure to implement a policy with its Police Department or actively enforce the law, if any of the following are lacking: Probable cause must be present before an individual such as the plaintiff herein can be arrested.
73. The City of New York is negligent or has acted with deliberate indifference due to its failure to implement a policy with its Police Department that prohibits, and punishes Police Officers for manufacturing false evidence against criminal defendants.
74. The foregoing acts, omissions and systemic failures are customs and policies of the CITY OF NEW YORK which caused the police officers to falsely arrest, illegally seize and search, maliciously prosecute, improperly manufacture evidence against, and suborn false testimony against the Plaintiff, under the belief that they would suffer no disciplinary actions for their failure to take proper or prudent steps in this case.
75. The defendant's deliberate indifference is further evident by and through the lack of meaningful investigation and punishment of transgressors. Upon information and belief, the NYPD Internal Affairs

Bureau (IAB) investigations rarely lead to administrative trials, and when they do, and the charges are somehow sustained, the punishment is minimal, thereby lacking any deterrent effect.

76. Upon information and belief, officers operated with the tacit approval of their supervisors and up the ranks, with an "ends justifying the means" mentality. This mentality includes a custom or practice of stopping, or stopping and frisking first, then establishing reasonable suspicion after the fact. Use of force was viewed as collateral damage of the stop and frisk policy established by the NYPD.
77. Police officers were rarely, if ever brought up on charges, investigated or disciplined for their over aggressive attempts to solve crimes including manufacturing evidence, and brutalizing witnesses.
78. Precinct commanders and supervisors were rarely, if ever, investigated, disciplined, reassigned or retained due to their own observations of misconduct, review of data or complaints from citizens for 4th Amendment violations, illegal search and seizure, illegal entry into citizen's homes without a warrant, false arrests, witness intimidation, submitting false police reports and other constitutional rights violations occurring in their command, under their watch.
79. Defendant the City of New York by its police department, acted with deliberate indifference to the need to reform their customs and practices which included as stated herein, rampant examples of

constitutional violations of its citizenry, thereby lending tacit approval to the unconstitutional conduct. Upon information and belief, the City, the police commissioner and/or the named defendants herein, were more interested in meeting "numbers" than they were safeguarding the constitutional rights of its citizens.

80. The acts of police officers who violate the civil and constitutional rights of the citizens of New York routinely go unreported by fellow police officers, not investigated by their superior officers, and consequently their acts, actions, omissions go unpunished. Failure to intervene and report is the norm, not the exception. Consequently, the acts of police officers who use excessive force, profile citizens racially, make false arrests, make false charges, falsely detain citizens and make false reports against them, make warrantless entry into the homes of citizens, etc, are condoned by other officers present, their supervisors, precinct commanders, and the police commissioner.
81. The City of New York and NYPD's tolerance for brutality, excessive force, illegal and/or retaliatory arrests, and the emphasis to "come down hard on quality of life infractions" leads to a systemic practice and policy wherein City officials are tolerant, both outwardly and inwardly of police brutality, silence in the face of such brutality and/or illegal stops, frisks, searches, seizures and/or arrests, warrantless entry into citizen's homes and quota arrests. A systemic practice where

officers who report said misconduct are not viewed as "good cops" but rather as outcasts and "snitches" and are isolated, ostracized and often transferred, thereby perpetuating the illegal conduct of other officers.

82. There is a pervasive pattern, custom and de facto policy of the City of New York to allow its police officers to violate the constitutional rights of citizens, as reported in the New York Daily News expose of Sunday May 19, 2013 where the Daily News reported a litany of unconstitutional actions taken by the NYPD teams of police officers that have been the subject of lawsuits and departmental hearings but resulted in virtually no reprimands to the offending officers, rather, one officer was promoted to a Lieutenant even when his actions were known to be unconstitutional.
83. The defendants subjected the plaintiff to these deprivations, either in a malicious or reckless disregard of the plaintiff's rights or with deliberate indifference to those rights under the fourth and fourteenth amendments to the United States Constitution.
84. The direct and proximate result of the Defendant's acts are that the plaintiff has suffered severe and permanent injuries of both a physical and psychological nature, was forced to endure pain and suffering, all to his detriment.

WHEREFORE, plaintiff, A.R.C., an infant under the age of 18 years, by his mother and natural guardian, ELIZABETH ROSADO, demands judgment against the defendants, jointly and severally, in an amount of damages which exceeds the monetary jurisdictional limits of any and all lower courts which would otherwise have jurisdiction in the amount determined upon trial of this action.

Dated: New York, New York

July **27**, 2017

_____**/S/**_____
Chukwuemeka Nwokoro
Nwokoro & Scola, Esquires
Attorney for the Plaintiff
44 Wall Street, Suite 1218
New York, New York 10005
(212) 785-1060

VERIFICATION

STATE OF NEW YORK)
COUNTY OF NEW YORK)

I, the undersigned, an attorney duly admitted to practice law in the State of New York, under penalties of perjury do affirm;

That I am the attorney of record for the plaintiff in the within matter and make this affirmation in accordance with CPLR 3020. I have read the within SUMMONS AND VERIFIED COMPLAINT and know the contents thereof to be true to your affiant's own knowledge, with the exception of those matters therein stated to be alleged upon information and belief. Your affiant bases his belief regarding those matters upon the contents of the file and conversation with the plaintiffs.

This verification is made by your affiant and not by the plaintiff for the following reason; plaintiff resides in a different County than where your affiant maintains an office.

Dated: New York, New York
July **27**, 2017

/S/
CHUKWUEMEKA NWOKORO